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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,477	12/22/2003	Vern Hall	VH-1-js	8021

7590 10/18/2004
Michael I. Kroll
171 Stillwell Lane
Syosset, NY 11791

EXAMINER

WILLIAMS, HOWARD L

ART UNIT	PAPER NUMBER
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2819

DATE MAILED: 10/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/743,477

Applicant(s)

HALL, VERN

Examiner

Howard L. Williams

Art Unit

2819

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains: Patentability shall not be negated by the manner in which the invention was made.

Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hardison (US 2003/0235808 A1) in view of Gabai et al (US 6,290,566).

Hardison discloses a message playback apparatus for timed replay of a previously recorded messages. Hardison discloses a human intervention panel (220; fig. 2) which includes control buttons, control logic (250; fig. 2) that includes a digital signal processor (¶0030), memory for storing the recorded message (115; fig. 1), and speaker (240; fig. 2). Hardison discloses an input/output panel (180; ¶0023) but does not specifically incorporate a microphone into the apparatus. Neither does Hardison disclose the power supply but obviously must have one.


Gabai et al. discloses a plush toy with message playback system incorporated therein to playback personalized messages which are recorded into the system memory. Gabai discloses a power supply jack (125; fig. 2). It would have been obvious to include a battery/power supply as disclosed by Gabai in Hardison to provide the message playback system with electrical power to achieve its intended purpose because otherwise the system would be non-functional. Gabai also discloses inclusion of a microphone in the toy as one means of input for programming messages into the playback. It would have been obvious to include a microphone in the Hardison system to allow input highly personalized recording without necessitating purchase by the user of other expensive equipment that would lessen the chance of wide acceptance among potential users. Inclusion of the microphone in the toy would also allow for direct input of a desired message thus allowing the user to personally customize the desired message or have the playback be in the message of a recognized voice to a child.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Smirnov (US 20010041496 A1 and US 6585556 B2) discloses a plush toy with message playback features in response to various stimuli. Duran (US 20040049393 A1) discloses plush toy with personalized message playback features.

Cerda et al.(US 5738526 A) discloses an educational doll with message playback to fit various predetermined life activities. Cerda also includes a clock display. Duncan (US 4772873 A) discloses a digital message system with audio recording and playback.

Any inquiry concerning this communication should be directed to Howard L. Williams at telephone number 571.272.1815. The Patent and Trademark Office has a new central facsimile number for application specific correspondence intended for entry, it is 703-872-9306.

10/15/04
Voice 571.272.1815


Howard L. Williams
Primary Examiner
Art Unit 2819